

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 98-0509P
Gasoline Tax
For the Month Ended March 1998**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed for the late EFT payment shown on its MF-120 that was filed timely. Taxpayer further states it has put procedures in place to assure that late payments will not occur in the future. The clerk handling the account states she was off from work during the months of March and April and assigned another person to call in the Gasoline Distributor's Tax. Upon her return to work she was told the deposit had been made but nothing had been drafted against it. Upon further investigation, she found that the tax had not been paid. Since this was the second time within a short period that the call was not made, procedures have been placed to assure this will never happen again, therefore a request for penalty waiver is submitted.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in timely paying its gasoline tax by EFT.

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IC 6-6-1.1-502 (b) clearly states that the taxpayer must remit gasoline taxes due by electronic fund transfer on or before the date the tax is due. The MF-120 form clearly states that a return must be filed each month, within 20 days following the last day of the month being reported, even if there is no tax due. The failure to timely remit tax without reasonable cause is considered negligence.

Taxpayer has not provided reasonable cause and was previously on notice regarding late payments.

FINDING

Taxpayer's protest is denied.